

## Message

**From:** Watson, Lucinda [Watson.Lucinda@epa.gov]  
**Sent:** 3/8/2019 6:56:37 PM  
**To:** Feldman, Michael [Feldman.Michael@epa.gov]  
**Subject:** FW: Draft NPRM to withdraw the TX SSM SIP call Region 6 3\_1\_2019.docx

## Are you working today?

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**From:** Watson, Lucinda  
**Sent:** Friday, March 8, 2019 12:56 PM  
**To:** Bartley, Richard <Bartley.Richard@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>  
**Cc:** Donaldson, Guy <Donaldson.Guy@epa.gov>; Smith, Suzanne <Smith.Suzanne@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Seidman, Emily <seidman.emily@epa.gov>  
**Subject:** RE: Draft NPRM to withdraw the TX SSM SIP call Region 6 3\_1\_2019.docx

**Kristi,**  
**Rick just forwarded me the version OGC is reviewing.**  
**Our clients will not sign a FRN that says – The EPA R6. That is a stopper.**  
**We understand we need to have some language that attributes this change to Reg. 6 specifically but we require help with ideas on how to write it and how not to highlight it.**  
**The RA is insistent that the notice reflect it is her decision.**

**Thanks to all for helping us on this matter,**  
**Lucinda**  
**214-333-2237**

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**From:** Bartley, Richard  
**Sent:** Friday, March 8, 2019 10:39 AM  
**To:** Watson, Lucinda <Watson.Lucinda@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>  
**Cc:** Donaldson, Guy <Donaldson.Guy@epa.gov>; Smith, Suzanne <Smith.Suzanne@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Seidman, Emily <seidman.emily@epa.gov>  
**Subject:** RE: Draft NPRM to withdraw the TX SSM SIP call Region 6 3\_1\_2019.docx

Yes, I found out yesterday that there are actually two versions – one at HQ and one at Region 6. Trying to get them back into one version, so we will be speaking off the same page, literally.

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**From:** Watson, Lucinda  
**Sent:** Friday, March 08, 2019 10:36 AM  
**To:** Smith, Kristi <Smith.Kristi@epa.gov>  
**Cc:** Donaldson, Guy <Donaldson.Guy@epa.gov>; Smith, Suzanne <Smith.Suzanne@epa.gov>; Bartley, Richard <Bartley.Richard@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Seidman, Emily <seidman.emily@epa.gov>  
**Subject:** Re: Draft NPRM to withdraw the TX SSM SIP call Region 6 3\_1\_2019.docx

I wasn't even finished reviewing the notice. I found out yesterday there are two versions. As far as I know, Wren understood we had more edits and also needed to see HQs edits.

Sent from my iPhone

On Mar 8, 2019, at 10:29 AM, Smith, Kristi <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)> wrote:

Adding Rick, Gautam, and Emily to make sure they are also in the loop.

Kristi M. Smith \* Assistant General Counsel for the NAAQS Implementation Group \* Air & Radiation Law Office \* US EPA, Office of General Counsel \* [smith.kristi@epa.gov](mailto:smith.kristi@epa.gov) \* (202) 564-3068 \*

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**From:** Smith, Kristi

**Sent:** Friday, March 08, 2019 11:29 AM

**To:** Donaldson, Guy <[Donaldson.Guy@epa.gov](mailto:Donaldson.Guy@epa.gov)>; Watson, Lucinda <[Watson.Lucinda@epa.gov](mailto:Watson.Lucinda@epa.gov)>; Suzanne Smith <[Smith.Suzanne@epa.gov](mailto:Smith.Suzanne@epa.gov)>

**Cc:** Bianco, Karen <[Bianco.Karen@epa.gov](mailto:Bianco.Karen@epa.gov)>

**Subject:** RE: Draft NPRM to withdraw the TX SSM SIP call Region 6 3\_1\_2019.docx

Hi all,

Karen forwarded this along to me given the string at the bottom implying my approval of this notice. Earlier this week, in a call with all ORCs speaking generally about these SSM SIP actions, Lucinda spoke very generally about the edits to the approach Reg. 6 was suggesting (presenting as a unique interpretation to Texas b/c of the 5<sup>th</sup> circuit), and I conveyed that THAT approach sounded okay but it would all depend on how it looked. I never intended that preliminary assessment to be my final word, especially as I hadn't seen the edits proposed. I've now looked at this, and while many of the changes can likely be incorporated, I do not see a way in which the notice does not attribute this change to Reg. 6 specifically. Otherwise, it looks like EPA as a whole is changing its view of affirmative defenses (even if only for Texas) as put forward in the 2015 SSM SIP Call, which is inconsistent with the direction Bill Wehrum provided. I think there is a middle ground we can meet which will be acceptable to the Region while consistent with the direction from OAR, but these are exactly the issues we'll be discussing at the group call on Tuesday. However, I wanted to clarify this now given that Wren seems to think I reviewed this notice and was okay with all of the changes suggested by the Region.

- Kristi

Kristi M. Smith \* Assistant General Counsel for the NAAQS Implementation Group \* Air & Radiation Law Office \* US EPA, Office of General Counsel \* [smith.kristi@epa.gov](mailto:smith.kristi@epa.gov) \* (202) 564-3068 \*

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**From:** Bianco, Karen

**Sent:** Thursday, March 07, 2019 7:28 PM

**To:** Smith, Kristi <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)>

**Subject:** Fwd: Draft NPRM to withdraw the TX SSM SIP call Region 6 3\_1\_2019.docx

Sent from my iPhone

Begin forwarded message:

**From:** "Bartley, Richard" <Bartley.Richard@epa.gov>  
**Date:** March 7, 2019 at 5:47:03 PM EST  
**To:** "Lessard, Patrick" <Lessard.Patrick@epa.gov>  
**Cc:** "Shar, Alan" <shar.alan@epa.gov>, "Bianco, Karen" <Bianco.Karen@epa.gov>  
**Subject:** FW: Draft NPRM to withdraw the TX SSM SIP call Region 6 3\_1\_2019.docx

Hi Patrick –

Attached please find the latest version of the subject document that will be discussed on Tuesday's call.

Rick

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**From:** Watson, Lucinda  
**Sent:** Thursday, March 07, 2019 2:37 PM  
**To:** Bartley, Richard <Bartley.Richard@epa.gov>; Smith, Suzanne <Smith.Suzanne@epa.gov>  
**Subject:** FW: Draft NPRM to withdraw the TX SSM SIP call Region 6 3\_1\_2019.docx

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**From:** Stenger, Wren  
**Sent:** Thursday, March 7, 2019 12:51 PM  
**To:** Watson, Lucinda <Watson.Lucinda@epa.gov>  
**Subject:** FW: Draft NPRM to withdraw the TX SSM SIP call Region 6 3\_1\_2019.docx

Lucinda, you are terrific! Thanks again for the fix on this.

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**From:** Donaldson, Guy  
**Sent:** Thursday, March 07, 2019 12:34 PM  
**To:** Stenger, Wren <stenger.wren@epa.gov>  
**Subject:** Draft NPRM to withdraw the TX SSM SIP call Region 6 3\_1\_2019.docx

Wren,

I hadn't read the latest version. Based on my feedback, Rick and Lucinda have substantially edited the notice. I am much more comfortable with the notice.

I left the redline strike out so you could see amount of change. In general, they have changed it from a Region 6 policy to an "alternative interpretation" which is the language in the delegation for SIPs. They are also careful to say that it is an alternative interpretation *for Texas*. They took out all of the EPA Region 6 references.

Lucinda and Kristi had a call with OGC yesterday and described the changes. Lucinda told me Kristi was comfortable with the changes as described. I'm not sure what people will say when they actually read the notice.